DETAILED ACTION

This responds to the Office Communication mailed on 04/27/2010. Applicant respectfully requests reconsideration of this application in view of the following remarks. Further examination and reconsideration of the presently claimed application is respectfully requested.

No new claims are added. Further examination and reconsideration of the instant application is respectfully requested.

Claim Objections

Claims 19 and 20 were objected to. Applicant has amended these claims to overcome the objections.

Claim Rejections – 35 USC § 112

Claim 15 was rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully submits that independent claim 15 and their dependent claims have been amended. Support of the amendment can be found at least in paragraph [0029]. Therefore, Applicant respectfully requests reconsidering the rejection of claim 15 and requests the withdrawal of the rejection.

Claim Rejections – 35 USC § 103

The Examiner stated that Claims 1-22 are rejected under 35 USC § 103(a) as being unpatentable over Ravipour (US 2004/0004957).

Applicant respectfully submits that Ravipour does not describe or suggest each and every element as recited by independent claim 1 "monitoring packets sent from the first network element to the third network element to identify a TFO request message; monitoring packets sent from the third network element to the first network element to identify a TFO acknowledgement

message from the third network element in response to the TFO request message; sending a substitute TFO acknowledgement message from the second network element to the first network element if no TFO acknowledgement message is identified from the third network element; and establishing a TFO call leg between the first and second network elements and establishing a non-TFO call leg between the second and third network elements after sending the substitute TFO acknowledgement message from the second network element". Independent claim 9 recites similar subject matter.

The Examiner contends and correlates that "gateway" of Ravipour is same as "second network" element of claims 1 and 9. The Examiner cites paragraph [0022] of Ravipour to argue claim 1. Paragraph 0024 merely provides a gateway, including an interface for allowing establishment of an end-to-end connection between a first remote entity and a second remote entity. The gateway also includes a control entity operative to monitor the end-to-end connection and detect the presence of in-band messages received from the first remote entity, the in-band messages being indicative of an attempt by the first remote entity to enter a tandem-free mode of operation. In the absence of an in-band response message from the second remote entity, the control entity is operative to generate and send an in-band response message to the first remote entity and negotiate therewith establishment of a second connection with the first remote entity, while maintaining the portion of the end-to-end connection between the gateway and the second remote entity. Applicant submits that the gateway of Ravipour teaches away from the claimed invention. Ravipour does not describe or suggest independent claim 1 "sending a substitute TFO acknowledgement message from the second network element to the first network element if no TFO acknowledgement message is identified from the third network element".

Further, Applicant respectfully submits that it is known in the art that a gateway is a network point that acts as an entrance to another network. In the network for an enterprise, a computer server acting as a gateway node is often also acting as a proxy server and a firewall server. A gateway is often associated with both a router, which knows where to direct a given packet of data that arrives at the gateway, and a switch, which furnishes the actual path in and out of the gateway for a given packet. Ravipour's gateway is not much different from the above

disclosed gateway. Ravipour does not disclose sending a substitute TFO acknowledgement message from the second network element to the first network element if no TFO acknowledgement message is identified from the third network element as taught by the claimed invention. Therefore, Ravipour clearly teaches away from the claimed invention and does not describe or suggest each and every element as recited by independent claim 1. Independent claims 9, 15 and 21 covers the same argument as set forth above.

Assuming arguendo, even if the Applicant believed that Ravipour gateway can be similar to second network element, Ravipour still fails to describe claim 1, more particularly "sending a substitute TFO acknowledgement message from the second network element to the first network element **if no** TFO acknowledgement message is identified from the third network element; and establishing a TFO call leg between the first and second network elements".

Ravipour describes a data communication apparatus including a port and a control entity. The control entity is operative to establish a connection with a remote entity over a first path and negotiate with the remote entity using in-band signaling over the first path establishment of a second path allowing the exchange of data between the data communication apparatus and the remote entity. Ravipour presents advantages from the standpoint of ease of implementation and bandwidth and resource savings. The use of an in-band messaging protocol to negotiate a establishment of the second path can be implemented generally in a straight forward manner. At the same time, the ability to transfer at least part of the connection to the second path avoids the drawbacks that would arise if that part of the connection were constrained to the first path. This feature allows the operator to take advantage of benefits provided by the second path but not available to the first path (See Abstract). Ravipour teaches away from the claimed invention. Ravipour does not disclose or suggest claim 1, more particularly "sending a substitute TFO acknowledgement message from the second network element to the first network element **if no** TFO acknowledgement message is identified from the third network element; and establishing a TFO call leg between the first and second network elements". Therefore, the teaching of Ravipour is not sufficient to render the claims prime facie obvious, because the proposed replacement would render Ravipour unsatisfactory for its intended purpose. See MPEP

2143.01(V). Therefore, the use of sending a substitute TFO acknowledgement message from the second network element to the first network element **if no** TFO acknowledgement message is identified from the third network element; and establishing a TFO call leg between the first and second network elements can not be taught by Ravipour.

For the reasons explained above, Applicant respectfully submits that Ravipour fails to cover come the claimed invention independent claims 1, 9, 15 and 21. Claims 2-8, 10-14, 16-20, and 22 are dependent on independent claims 1, 9, 15 and 21 respectively and incorporate all their limitations. For the reasons set forth above, Applicant believes that claims 1, 9, 15 and 21 are in condition for allowance and respectfully requests they and all claims depending there from be passed to allowance.

CONCLUSION

For the reasons set forth above, Applicants believe that the independent claims and the claims that depend from them are in condition for allowance and respectfully request they be passed to allowance. The Examiner is invited to telephone the undersigned at any time.

Respectfully submitted,

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By: /Raffi Gostanian/
Raffi Gostanian
Reg. No. 42,595
972.849.1310